

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Szentistvany	
Application No.: 10/524,122	Group Art Unit: 3654
Filed: 2/10/2005	Examiner: Stefan Kruer
Title: Safety Device for Stairlifts	Confirmation No: 2656
Attorney Docket No.: URQU.P-014	
Customer No.: 57381	

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Pre-Appeal Brief Request for Review

Dear Sir:

In accordance with the provision of the pilot program announced in the Official Gazette at 1296 Off. Gaz. Pat. Office 67 (July 12, 2005) and extended in an announcement on January 10, 2006, Applicant requests a pre-Appeal Brief panel review of the rejection in this application.

The Examiner rejects claims 1-9 under 103 as obvious over Watson (GB 2,339,419) in view of Jones et al. (GB2,322,450). *See* the June 26, 2007 office action. The Examiner also rejects claims 10, 11, and 12 under 103 as obvious over the combination of Gisske (US 4,904,916) and Bartlet (US 5,230,405). *Id.* Applicant respectfully requests the panel to overturn these rejections since the Examiner has clearly erred in making the same.

The Examiner has failed to consider the declaration evidence and has failed to make a prima facie case for obviousness:

CLAIMS 1-9

In considering the patentability of claims 1-9, the factual issues are straightforward. The art does teach stair lifts with over-speed governors that limit the maximum speed of the chair by applying a brake to slow the movement of the chair along the rail. There are also mechanisms for controlling the seat or chair angle to prevent it from tipping and causing the passenger to fall from the chair. What the art does not provide, and what is provided by this invention is an interconnection between these two sets of controls so that the brake that controls the speed of the chair along the rail is activated in response to excessive chair angle as well as excessive speed.

The Examiner offers a combination of two references, Watson (GB 2,339,419) and Jones (GB2,322,450), as suggesting the claimed combination. Watson teaches the conventional stair lift with an over-speed governor. Jones also relates to stair lifts, and particularly to control of the angle of the chair. Jones happens to use the word "brake" in the context of a response to excessive chair angle. *See* Jones at Page 1, 4th paragraph.

The word "brake" has multiple possible meanings in the art. The Examiner has chosen a meaning that supports the rejection of the present claims notwithstanding declaration evidence to the contrary, and the absence of any objective evidence that this is the correct interpretation.

The Examiner contends that Jones' reference to "some sort of Brake" could mean an over-speed governor acting between the carriage and the rail to slow the speed of the carriage and accompanying chair along the rail. *See* the office action, Page 4 third paragraph. The Examiner then concludes, "Jones, therefore, introduces the concept of braking should the chair, while following the changing gradient as designed for 'normal stairlift operating speeds', be displaced beyond a set (maximum) angle of deviation." *Id.* at page 7 second paragraph. The first statement of what the reference could mean does not lead to the conclusion unless that is the way the teaching would be interpreted by the artisan.

Jones is concerned with a system for controlling seat or chair angle on a stairlift. The "brake" referred to in Jones can be found at Page 1, fourth paragraph and is not a speed brake for slowing the chair along the length of the rail. This section deals with angular rotation of the chair about a horizontal axis, and not of speed of the chair along the length of the rail. As described above, such devices are common in stairlifts. For example, components labeled 23 and 24 in Figure 1 of the present application are exemplary of such a device.

Applicant submitted declaration evidence in this case supporting his contention and demonstrating that the Examiner's interpretation of Jones' "brake" was incorrect. *See* the 132 declaration filed on April 26, 2006. In particular the declaration reads:

3. The Jones disclosure is solely concerned with chair angle control and makes no mention whatsoever of a carriage over-speed limiting device for stairlifts.
4. While Jones does disclose that deviation of the seat beyond a certain angle range may lead to the engagement of "some sort of brake", Jones does not disclose nor in any way allude to the possibility of triggering an over-speed braking means through a chair-angle determining means.
5. As one skilled in the art of stairlifts, after reading the Jones disclosure, it is my opinion that the "brake" of Jones is something equivalent to components 23 and 24 in Fig. 1 of the present invention. Namely, it is not an over-speed governor

according to the present invention, rather it is a brake to prevent excessive rotation of the chair.

6. Therefore, Jones **fails** to introduce the concept of braking the speed of his stairlift should the chair be displaced beyond a set (maximum) angle of deviation as required in claims 1-9 of the present invention.

The Examiner has failed to comment on this evidence. The Examiner has failed to provide any reason why this evidence is not correct or is not to be believed. In other words, the Examiner has simply ignored the declaration.

Applicant therefore submits that the Examiner has failed to make a prima facie case for obviousness against claims 1-9 and Applicant submits that these claims are not obvious over Watson in view of Jones.

CLAIMS 11 and 12:

The Examiner's rejection of claims 11 and 12 (which is dependent on claim 11) as unpatentable over Gisske in view of Bartlet is in clear error. Claim 11 reads:

11. A stairlift carriage for movement along a stairlift rail, said carriage comprising a drive motor operable to drive said carriage along side rail; an over-speed governor operable to brake said carriage with respect to said rail; limit engagement means operable independently of said over-speed governor and positioned to physically engage ultimate stops provided at each end of the rail, said ultimate stops physically preventing displacement of said carriage from said rail, wherein said over-speed governor and said limit engagement means actuate a common isolation switch thereby cutting power to said drive motor.

The Examiner contends that Gisske discloses "...limit engagement means (60, 58) operable independently of said over-speed governor and positioned to engage limit stops (14, 16)...". See page 5 of the office action. The Examiner further contends that Gisske discloses "...and wherein said over-speed governor and said limit engagement means actuate a common isolation switch to disengage the drive motor". *Id.*

The limit engagement means (limit stops 60, 58 as suggested by the Examiner) of Giske are infrared transmitters and are not 'ultimate' limit stops. Furthermore limit stops 60, 58 would not be understood by a person skilled in the art as constituting 'ultimate' limit stops. Regulations governing the design of stairlifts specifically exclude, for safety reasons, electronic devices (such as Gisske's limit stops (60, 58)) being used as ultimate limit stops. Applicant provided declaration evidence establishing this fact. See the 132 declaration filed on April 26, 2006. The declaration reads:

8. I have reviewed claim 11 in light of Gisske et al. The infrared transmitter modules 58 and 60 described in Gisske are not, and could not be, ultimate limit switches. They merely provide a means of communicating between the carriage and the external drive motor, to control movement and speed of the carriage along the rail. Physical safety switches must always be provided in addition to these motion control devices. Regulations governing stairlift design require physical ultimate limit stops, such as components 71 in Figures 3 & 5 of the present application, to be provided on the rail. Complementary positive break electro-mechanical switches must also be provided on the carriage so that, when the carriage engages the ultimate limit stops, power is cut to the carriage drive motor. Claim 11 offers a particular arrangement where the switch used to cut power when the carriage engages the ultimate limit stops, is the same switch which operates when the over-speed governor is triggered.

The Examiner has failed to comment on this evidence. The Examiner has failed to provide any reason why this evidence is not correct or is not to be believed. In other words, the Examiner has simply ignored it.

Assuming arguendo that the Examiner's interpretation were correct that limit stops (60, 58) of Gisske were 'ultimate' limit stops (which they are not), Bartlet shows the provision of the physical ultimate limit stops in the form of bumpers 103 that are positioned to engage and trigger limit switches 105 provided on the carriage. There is no mention of an over-speed governor as required by claims 11 and 12 in Bartlet. One skilled in the art, could not form an accurate or realistic view as to how physical elements which are not described (the ultimate limit stops) might operate in conjunction with the over-speed governor, as required in claims 11 and 12.

Applicant therefore submits that the Examiner has failed to make a prima facie case for obviousness against claims 11 and 12 and Applicant submits that these claims are not obvious over Gisske and Bartlet.

CLAIM 10:

The Examiner's rejection of claim 10 as unpatentable over Gisske in view of Bartlet is in clear error. Claim 10 reads:

10. (previously presented) A method of testing the operation of an over-speed governor included within a stairlift carriage, said governor acting in combination with electronic speed sensing means and a governor actuation circuit, said method comprising the steps of simulating an electrical signal indicative of carriage speed, applying said signal to said governor actuation circuit and observing a response of said governor.

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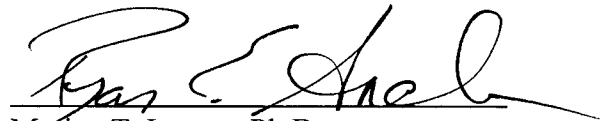
The testing method claimed is specific to a stairlift having an over-speed governor responsive to an electronic speed sensing means. While Gisske acknowledges the existence of an over-speed governor, there is no description given of the form of the governor (i.e. no disclosure that it is response to electronic speed sensing means) and no deduction can therefore be made as to how that governor might be assembled and tested. Bartlett makes no mention of an over-speed governor, let alone one acting in combination with electronic speed sensing means.

Applicant therefore submits that the Examiner has failed to make a prima facie case for obviousness against claim 10 and Applicant submits that claim 10 is not obvious over Gisske and Bartlett.

CONCLUSION:

For these reasons, Applicant requests the Panel to overturn the Examiner's rejections and Applicant submits that this application is now considered to be in condition for allowance. Such actions are earnestly solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Marina T. Larson", written over a horizontal line.

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